

mv
PL

FRIED, FRANK, HARRIS, SHRIVER & JACOBSON

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

ONE NEW YORK PLAZA

NEW YORK, N.Y. 10004-1980

(212) 820-8000

94 MAR 15 P6:18

FACSIMILE NUMBERS

(212) 747-1526

(212) 820-8445

(212) 820-8466

If you have problems receiving this transmission, please contact us at (212) 820-8362.

Confidentiality Note:

The information contained in this facsimile message is legally privileged and confidential information intended only for the use of the addressee named below. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this telecopy is strictly prohibited. If you have received this telecopy in error, please immediately notify us by telephone and return the original message to us at the address above via the United States Postal Service. We will reimburse any costs you incur in notifying us and returning the message to us. Thank you.

FACSIMILE COVER LETTER

Date: 03/15/94 05:06 PM

Number of Pages (including cover sheet): 1

To: Mr. John D. Podesta

Assistant to the President and Staff Secretary

Firm Name: Office of the President

Fax No.: 202-456-2215

Office No.: 202-456-2702

From: William Josephson

Ext.: 8220 Fl.: 26

Comments: Like me, Bill Moyers does not clearly remember Hardesty. According to Bill, he worked under Bill's late brother, who died prematurely, during the Johnson administration responding to presidential correspondence.

05754 23491500 5:23

TO: John
From - Jody
my most recent
ubarmah
Jody

THE WHITE HOUSE
WASHINGTON

94 JAN 4 AIO: 29

To: Phil Lader
Mack McLarty
Mark Gearan
Jody Greenstone

From: Andi Burchfield
For Jan Piercy

Re: The Archivist

Date: December 22, 1993

The attached memo arrived after Jan's departure for Minnesota. The memo provides background information on the status of the Archivist which may be needed for calls being received regarding this pending appointment.

Marc Monheimer, Senior Advisor to the Archivist, or Jan can be called for further information or to respond to calls you may receive. Marc Monheimer's office phone number is 202-501-5130 and his home phone number is 202-393-7112. From 12/24-12/26 he can be reached at 802-787-9205.

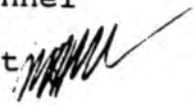
Jan can be reached at 612-925-9246 from 12/22-12/26.

Attachment

MEMORANDUM

Date: December 21, 199

To: Jan Piercy, Deputy Director of Presidential Personnel

From: Marc H. Monheimer, Senior Advisor to the Archivist 

Subject: Nomination of Archivist of the United States

The need to proceed with the intent to name a new Archivist is critical:

-- The National Archives is rapidly reaching a dysfunctional state.

-- The efforts within the Archives to undermine the appointment of a person of stature who could lead the Agency in performing its critical government records management and preservation functions and protect the interests of the President with respect to Presidential Records continue unabated.

-- A decision memo recommending the nomination of Dr. Mary Maples Dunn, the President of Smith College, has been held up in order to explore concerns regarding issues relating to insuring protection of Presidential Records on completion of the Clinton Presidency.

-- There is a strong lobbying effort for the nomination of Robert L. Hardesty to be Archivist. Mr. Hardesty's candidacy was carefully considered (you, John Podesta, Phil Lader, Bill Gilcher, Susan Clampett and I have been involved). The conclusion was reached that he is not professionally qualified for the position as required by the statute, that there would be vehement public opposition to his candidacy, that the Senate Governmental Operations Committee would not view the nomination favorably and that his nomination would cause the President considerable public embarrassment. For these reasons Mr. Hardesty is not recommended for the position of Archivist. Mr. Hardesty has raised the issue of protection of the interests of the President with respect to Presidential Records.

-- Dr. Dunn has expressed her views with respect to the need to balance the statutory pressure for public access to Presidential Records and the importance of protecting Presidential Records from early release which might be embarrassing to the President. (Keep in mind that no release of Presidential Records is possible for 5 years after the Administration ends and for 12 years with respect to records properly classified for protection by the President, a decision which is entirely within the province of the President. Personal records of the President are never available to the public and do not belong to the government). You, Diane Blair, Melanne Verveer, Phil Lader and John Podesta, as well as Bill Gilcher,

Susan Clampett and I, believe that Dr. Dunn would bring to the position the needed stature and experience, as well as sensitivity to the needs of the President without regard to her political affiliation. Dr. Dunn would be willing to return to Washington for further discussions regarding her views with respect to protection of Presidential Records, if that is considered desirable.

-- Dr. Dunn has the support of Senator Wofford and Senator Kennedy and would probably have the support of Senator Moynihan after being nominated.

-- The situation at the Archives is becoming increasingly difficult. No one believes the Acting Archivist has the authority to take definitive action and competent senior management is unwilling to take risks which would adversely affect their careers if a new Archivist is predisposed to those in management who have been the cause of the many problems of the Archives. A definitive statement of support for the institution through the appointment of Dr. Dunn as someone of skill, experience and stature is essential at the earliest possible time.

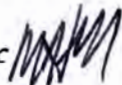
I am available for whatever help is needed. I can be reached at

(202) 505-5130 (work)
(202) (393-7112) (home)
(802) 878-9205 (12/24-26)

MEMORANDUM

Date: December 21, 1993

93 DEC 21 5:58

To: John Podesta
From: Marc H. Monheimer 
Subject: Nomination of Archivist

I thought you should see the enclosed. We suspect it was actually written by Claudine Weiher, but probably inspired by one or more Presidential Library directors. Aside from its rather inept argument based on the views of those who lost the fight in the Congress over the statute, its a rather thinly veiled attempt to push Hardesty as one who will protect the President at all costs. As important as the Presidential Records issue is, it is not the sole mission of the National Archives and the emphasis on the issue proves again the political nature of Hardesty's candidacy. The confirmation process would be an major embarrassment.

National Archives



cc: M N gmr
12/20
N12/20/93

Washington, DC 20408

Date : December 20, 1993
Reply to : NL
Attn of :
Subject : Policy and procedures for implementing the Presidential Records Act and FOIA requests
To : Acting N

Reagan Presidential and Bush Vice Presidential records become available to FOIA requests on January 20, 1994. In preparation for how to handle these requests, I had Nancy Smith plan a course for the Reagan Library. The course which was originally scheduled for November was rescheduled for December when you asked that Miriam Nisbet and Mary Ronan be included to discuss FOIA procedures.

In discussions with Miriam Nisbet and Mary Ronan in preparation for the course several important issues were raised that need to be decided as soon as possible. The decisions on these issues will be precedential - affecting how the Archives' handles and interprets the Presidential Records Act and the restriction categories that the President can choose to apply.

The approach the Archives decides to take in handling these records, and the procedures we establish for Reagan Presidential and Bush Vice Presidential records, will govern how we deal with future Presidential and Vice Presidential records collections. The core issue and differences in approach center around what the true nature of these papers are? Basically, those with FOIA experience (Miriam Nisbet and Mary Ronan) seem to feel that after five years, except for the Presidential restricted categories, these papers are to be treated exactly the same as any other executive branch agencies records under FOIA. However, I feel that in passing a separate act, the Presidential Records Act, Congress recognized the very special nature and sensitivity of the President's files and mandated that we treat these materials somewhat differently from normal executive branch agency records, particularly for the first twelve years if the President decided to apply the restriction categories.

These two philosophically differing views of the intention of the Presidential Records Act and the true status of these records lead in application to some very significant procedural differences that have tremendous implications for processing in Presidential and Vice Presidential records. However, this issue involves more than procedural questions

because it gets at the constitutional intent of the Presidential Records Act. Did Congress in giving the President six restrictions recognize the uniqueness and sensitivity of the papers and of the Presidency, or was the intention of Congress to essentially add the President to the definition of agency under FOIA?

To try to answer some of the questions, I asked Nancy Smith to research the history of the passage of the Presidential Records Act. I think that this history gives us very good guidance on the true nature of these papers and what procedures the Archives' should establish in making these records available.

The Presidential Records Act was a recommendation of the National Study Commission on Records and Documents on Federal Officials. This Commission was established in Title II of the Presidential Recordings and Materials Preservation Act and grew out of the Nixon controversy over control of his tapes and papers. The Commission was unified in its recommendation that the ownership of Presidential papers should be changed from the tradition of private property to public papers. However, the Commission split and did a majority and minority report on the control they felt the former President should have over the materials he created.

The majority report - the ideas of which were incorporated into the legislation that became the Presidential Records Act - recommended that for a period of fifteen years the President who created the records be allowed to apply blanket restrictions to a range of categories which dealt with areas that might touch on Executive privilege. The Commission majority report made this recommendation because the members were afraid of the "chilling effect" of immediately making these materials available to FOIA requests. The minority report of the Commission recommended that Presidential records be immediately available to FOIA requests as soon as the President leaves office.

These two different views of access were reflected in the two main bills Congress considered before it passed the Presidential Records Act: H.R. 10089, introduced by Representative Richardson Preyer, and H.R. 11001 introduced by Representatives Allen Ertel and John Brademas. Both bills established the public ownership of Presidential papers. However, H.R. 10988 made these papers immediately subject to FOIA upon the President's leaving office, while H.R. 11001 allowed the President a range of restrictions for a period of fifteen years. The Presidential Records Act, H.R. 13500, basically took the approach of the Ertel-Brademas bill - allowing the President the right to apply

some restrictions on his papers - except that it enumerated six specific categories, instead of leaving restrictions totally to the discretion of the former President, and limited the restriction period to twelve years.

The hearings held on these two pieces of legislation considered many of the access questions that have recently been raised. I am including some of the relevant discussions.

In a prepared statement by Lawrence R. Hammond, Deputy Assistant Attorney General, Office of Legal Counsel, U.S. Department of Justice, the benefit of allowing the President to restrict access for a period of time is discussed:

In contrast to the approach taken by H.R. 10988, that adopted by the majority of the National Study Commission and embodied in H.R. 1101, would allow outgoing or incumbent Presidents to restrict access to selected portions of their papers for up to 15 years. This proposal has much to recommend it. By precluding all unessential disclosures for a reasonable period, the chilling effect that could result from case-by-case debates on exemptions under the FOIA would be avoided. This compromise, allowing the passage of time, would seem to reduce the impact of a concern over breached confidences. Moreover, allowing for historical distance between the events underlying the President's documents and their disclosure, would, we think, improve the likelihood of meaningful access. (Hearings before a Subcommittee on the Committee on Government Operations House of Representatives Ninety-Fifth Congress Second Session on H.R. 10988 and Related Bills pgs. 132 & 133.)

James B. Rhoads, the then Archivist of the United States, also discusses the intent and benefit of the President being allowed to place mandatory restrictions on certain types of materials:

H.R. 10098 would strip a former President of all control over access to the Presidential records of his administration by making the records subject to an amended Freedom of Information Act at the time that the Archivist assumes custody of the records.

H.R. 1101, on the other hand, has adopted the recommendation of the Public Documents Commission permitting the former President to place restrictions on the records for up to 15 years from the time his term of office ends.

As a member of the Public Documents Commission I supported the recommendations that a President be permitted to control access to his papers for up to 15

years and I continue to do so. The Commission considered a great many factors in reaching the decision to make this recommendation and I believe that the reasons for the Presidential restriction period were good ones.

The materials under discussion represent the written record of the highest level policy discussions and decisions of issues of fundamental importance to all of us. The documents serve an important function at the time they are created and an important function later when they are used by the public and scholars to study and make judgments about the way decisions were made and why. Many of the Commission's witnesses expressed the belief that fewer and less candid Presidential records documenting the decisionmaking process would be originated if the policymakers believed that these documents would be quickly available to the public under the Freedom of Information Act.

We are concerned that the fullest possible record of Presidential decisionmaking be preserved and be made available for study. That was the impetus for the deliberations of the Public Documents Commission, and it is the intent of both of these proposed bills. However, the legislative history of the Freedom of Information Act gives no indication that Congress ever considered its application to the President or his immediate staff. The law was designed to apply to the records of executive branch agencies, not the White House, and we believe it inappropriate to try to extend the Freedom of Information Act to these materials.

Rhoads goes on to say:

In addition, professional archivists have expressed concern that efforts to systematically process the records and make them available would be severely hampered by numerous Freedom of Information Act requests and associated lawsuits which could be anticipated if the Presidential records were subject to this law immediately after the President left office. We share these concerns. It is likely that Presidential records would attract a large number of Freedom of Information Act requests because of the President's extreme public visibility. The threat of immediate, excessive litigation would divert considerable staff time from processing the records in order to search out isolated bits and pieces of information...

We advocate permitting a President to control his Presidential records for up to 15 years after the conclusion of his term of office. From a practical viewpoint, archivists would be able to process and open

a great many Presidential records prior to the end of the 15-year restriction period. Fifteen years also seems to us to be a sufficient period of time for politically sensitive issues reflected in the records to greatly diminish importance. (All Rhoads quotes from Hearings pgs. 135-137)

Later in the hearings, Steven Garfinkel, the NARS legal counsel, in responding to a question raised by Representative Quayle as to why applying FOIA exemptions would have a "chilling effect" said:

It is not the fact that the exemptions exist. It is the fact that the exemptions would immediately be subject to the interpretation by any number of members of the judiciary. And, the experience with the interpreting of exemptions under the existing Freedom of Information Act leads us to the conclusion that there is likely to be inconsistent application of the exemptions. (Hearings p.349)

There are many other relevant discussions in the Hearings, but the consistent interpretation on the Presidential restrictions is that the categories are there for the President to use if he chooses to protect privilege and confidential advice. FOIA framework and application is only discussed as applying to documents that do not fall within the Presidential restrictive categories. The fact that some of the categories are worded exactly the same as FOIA restrictions does not mean that the same interpretation or case law used with FOIA exemptions should be used on the Presidential restricted categories.

This point has tremendous impact on how we process at the Reagan Library and Bush project. Two of the Presidential restrictive categories: (1) dealing with national security and (6) dealing with invasion of privacy pick up the language used in FOIA exemptions. However, we have applied these restrictions in accordance with the standard practice in Presidential Libraries.

Specifically, if an item is classified we are closing it under PRA restriction (1). Miriam and Mary feel that the wording on this restriction "in fact properly classified pursuant to such Executive order" means that we will have to send all Presidential classified records requested by a FOIA requestor back for review for proper classification by the original classifying agency. This would require a tremendous amount of staff time to send back for consideration very recently classified national security information. Since a large amount of our classified material is generated by the White House or the National

Security Council, this would also have large ramifications for NSC.

I do not feel the purpose of this mandatory restriction category is to force a current review of classification. My position is that if the document was properly classified - marked - in accordance with EO 12356 - the document is closed until the former President drops this restriction. At the point he decides to drop this restriction, the FOIA framework or review would be applied. There is simply no logical explanation for why Congress would have given the President a restrictive category that simply mirrors material that could be closed under the B(1) FOIA exemption.

This same point, of whether we apply FOIA case law to Presidential restriction categories, also arises with PRA restriction (6) for clearly unwarranted invasion of privacy which mirrors the language used in FOIA exemption 6(b). Miriam feels that FOIA case law would require us to consider a narrowly defined public interest against the privacy being invaded. We have never applied the public interest test in Presidential papers because in most of our files a legitimate public interest argument could be made.

This point came up in a meeting that Miriam, Nancy and Mary had in California with the former President's representative, Stephen Blitz. Nancy raised the following hypothetical example to show how FOIA application to this category could be problematic: If George Shultz as Secretary of State had a nervous breakdown would it be in the public interest to know this and, therefore, force opening of this document. Miriam and Mary said possibly. Steve Blitz said that absolutely this is the sort of document the former President feels should be closed under the PRA restriction category for clearly unwarranted invasion of personal privacy. This sort of conflict would come up a great deal. Once again, there is no logical explanation for having given the former President a restriction category that totally mirrors a FOIA exemption. Even when the PRA restriction is no longer valid, I question whether the FOIA case law developed for agency records should be strictly applied to Presidential records in this area.

Other specific procedures that were questioned as conflicting with normal FOIA practice include the following:

1. Do the former and incumbent Presidents receive notification on a FOIA release?

Miriam Nisbet and Mary Ronan were not aware that the Act,

the implementing regulations, and EO 12667 require that the Archives give notification to both the former and incumbent President before any opening of Presidential or Vice Presidential records is made - even on a FOIA opening. This notification gives them the right to claim privilege, or to say that an item should be closed under one of the restriction categories, if the former or incumbent President object to the release of the item. The following are the specifics sections of the Act, the implementing regulations, and the Executive Order dealing with notification: 44 USC Sec. 2204 (c)(2) and Sec. 2206 (1)-(3); 36 CFR Part 1270.46, and EO 12667 Sec. 2.

This issue seems to be resolved - we will notify both the former and incumbent Presidents. The Executive Order gives 30 days for the period of notification which will add at least 20 additional days in responding to a FOIA requests. Therefore, we will need to incorporate the notification period into our FOIA response.

2. Does the FOIA practice of segregability on a line-by-basis require archivists dealing with Presidential and Vice Presidential records to do a line-by-line review on items that are requested under the FOIA?

The standard Presidential Library review policy is to make initial review decisions on a document-by-document basis. This policy has been followed for the past five years at the Reagan Library where we have made review decisions and applied restrictions on a document basis. This policy fosters much quicker access to Presidential materials - a key aim of the Presidential Records Act. Sanitization and line-by-line review are extremely time-consuming and burdensome.

The Presidential Records Act Sec. 2204 (b)(1) states that: "Any Presidential record or reasonably segregable portion thereof containing information within a category restricted by the President..." The question now raised is whether the policy of doing a line-by-line review has to be applied to all FOIA requests? If segregability means at the line level instead of the item level it will greatly increase the amount of time it takes the Reagan Library and Bush Project staffs to respond to a FOIA request.

We will continue the policy of reviewing on a document basis on an initial systematic review. If a researcher requests a document that is a Presidential restriction, we have received permission from former President Reagan's representative to do a re-review for segregation of information that could be opened without requiring a formal

appeal.

These are extremely important questions that need to be answered very quickly. I think the answers need to be consistent with the whole legislative history and intent of the Presidential Records Act. I suggest that we consult with the Department of Justice on this issue and that I set up a meeting with White House Counsel who definitely should be consulted on the ramifications of these questions.

Nancy Smith

for JOHN FAWCETT
Assistant Archivist
for Presidential Libraries

94 JAN 5 A10:51

JANUARY 4, 1994

INFORMATION

MEMORANDUM FOR THE STAFF SECRETARY

FROM: MARC H. MONHEIMER, SENIOR ADVISOR TO THE ARCHIVIST
OF THE UNITED STATES

SUBJECT: MISUSE OF THE PRESIDENTIAL RECORDS ISSUE TO
INFLUENCE THE APPOINTMENT OF ARCHIVIST

- I. **SUMMARY:** The effort to manipulate the appointment of an Archivist of the United States is being fueled by efforts from within the National Archives designed to unfairly and inaccurately cast the Acting Archivist and the other leading candidate for this nomination as enemies of Presidential prerogative and dangerous to the Clinton Presidency. This campaign has been engineered by a handful of National Archives employees close to the former Archivist who failed in their responsibility to properly advise Presidents Reagan and Bush regarding their Presidential records and who, while posing as guardians of Presidents' interests, will be proved to have done Presidents Reagan and Bush a great disservice. Those of us at the National Archives appointed by the Administration¹ believe the President will be best served by an Archivist who will objectively administer the law, which, applied properly, protects the President's prerogatives with respect to his Presidential and personal records. Under present and reasonably anticipated circumstances, the announcement of a nominee whose professional qualifications and political independence are open to serious challenge would be enormously embarrassing to the President.
- II. **DISCUSSION:** The statute establishing the National Archives as an independent agency provides that the President shall appoint the Archivist "without regard to political affiliations and solely on the basis of professional qualifications required to perform the duties and responsibilities of Office of the Archivist." The

¹ Also Shirley Clarkson, Director of Public Affairs, and Brian Thompson, White House Liaison.

Presidential Records Act of 1978 (the "Act")² requires that upon the end of a President's term(s) of office the Archivist shall "assume responsibility for the custody, control, and preservation of, and access to, the Presidential records of that President" and imposes on the Archivist "an affirmative duty to make such records available to the public as rapidly and completely as possible" in accordance with the Act.

Definition, Categorization of Presidential Records

The Act defines Presidential records as documentary materials "created or received by the President, his immediate staff or a unit or individual of the Executive Office of the President whose function is to advise and assist the President, in the course of conducting activities which relate to or have an effect upon the carrying out of the constitutional, statutory, or other official or ceremonial duties of the President," expressly including materials relating to the political activities of the President or his staff if they relate to or have a direct effect on the carrying out of constitutional, statutory or other official or ceremonial duties of the President and expressly excluding official agency records ("Federal Records") and "personal records." The Act defines personal records of the President as materials "of a purely private or non-public character which do not relate to or have an effect upon the carrying out of the constitutional, statutory, or other official or ceremonial duties of the President." The public availability of Federal Records is governed exclusively by the Freedom of Information Act ("FOIA") and other applicable law, not the Presidential Records Act. Personal records of a President are never available to the public.³

The Act provides that "prior to conclusion of his term[(s)] of office" [and quite plainly, therefore, not following his term(s) of office, the President "shall specify durations, not to exceed twelve years, for which access shall be restricted with respect to information, in a Presidential record" within six categories specified by the Act. Four of

² This memorandum assumes, *arguendo*, that the Act will be held constitutional when challenged under the doctrine of separation of powers.

³ Availability of personal records of a President pursuant to subpoena is not within the purview of the Archivist, as personal records of a President are never within the control of the National Archives as a matter of law. The National Archives would be a mere stakeholder with respect to a dispute over public access to personal records voluntarily transferred.

the six categories are essentially the same as the FOIA exemptions: classified information; information required by statute to be withheld; trade secrets; and personal and medical information, the release of which would constitute an unwarranted invasion of personal privacy. The two non-FOIA categories are information relating to federal appointments and "confidential communications requesting or submitting advice, between the President and his advisors, or between such advisors." The Archivist is required to restrict public access to categorized information for the period specified by the President. Records which contain information in a category not restricted by the President prior to the end of his term(s) of office are available to the public five years after the end of the President's term(s) of office under FOIA. The Act treats Vice Presidential records in the same manner.

Failure of Presidents Reagan and Bush to Categorize Information While in Office

President Reagan and Vice President Bush failed to exercise their rights to categorize information in Presidential records as described above largely, we believe, because they were poorly advised by those at the National Archives responsible for the eventual custody of their Presidential and Vice Presidential records. Because of this failure, the Presidential and Vice Presidential records of the Reagan Administration will become available to the public under FOIA on January 20, 1994. Presumably, case law interpreting the FOIA exemptions will be applied; however, the confidential communications among Presidential and Vice Presidential advisors will be wholly unprotected because that category of information was not specified for a period of non-disclosure and there is no equivalent FOIA exemption. It is reasonable to believe that within the next month and for some time thereafter, there will be a great deal of media coverage and public discourse on the subject of access to Presidential materials, without regard to the statutory distinction between Presidential and personal records.

Rather than categorizing information contained in his Presidential records prior to leaving office, on January 19, 1993, President Bush signed a blanket agreement with then-Archivist Don Wilson purporting to give President Bush "exclusive legal control" of his Presidential records in perpetuity. A discussion of the validity of the Bush-Wilson agreement is beyond the scope of this memorandum; however, those issues are expected to be raised sooner rather than later in the *Armstrong* (PROFS) litigation and in other pending litigation. The issue of the Archivist bending to the will of the President will be of great interest and concern to the media, to historians and to political scientists for some time to come.

Appointment of an Archivist of the United States

Among the most important duties of the new Archivist will be to advise and assist the President regarding the classification and categorization of his Presidential records through the duration of his Administration, so that they may be protected in keeping with his wishes and to the full extent allowed by law.

Given the current controversies, and coming legal challenges regarding access to Reagan Presidential and Bush Vice Presidential materials, the nomination of a nominee for Archivist able to win confirmation without controversy and fulfill the duties of Archivist will require that he or she demonstrate (1) responsiveness to the prerogatives of the President and attentiveness to the confidentiality of Presidential records; (2) appreciation of the statutory obligations regarding public access to Presidential records; and (3) perceived political independence with respect to the distinction between Presidential and personal records to ensure that the nominee's confirmation and tenure will not become a battleground over access to the President's personal records.

The Conference Report on the bill creating the National Archives as an independent agency states that "the conferees intend that [the Archivist] be an officer performing professional archival and records management functions insulated from the political orientation of a particular administration." Leading constituent organizations of the National Archives⁴ have already made clear their intention to vehemently oppose the nomination of any Archivist nominee whose nomination could be characterized as political and who is without professional distinction in his or her own field of endeavor, let alone as an archivist or historian. The successful nominee must be able to win the support of these constituencies so as to be confirmed without embarrassment to the President.

The President's interests will be best protected in the confirmation process, through the duration of his Administration, and after the National Archives has taken custody of his Presidential records by the appointment of an Archivist whose independence is unassailable and whose qualifications cannot be challenged.

⁴ For example, the American Historical Association, the Society of American Archivists, and the National Association of Government Archives and Records Administrators.